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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,000	12/03/2001	Mithra M.K.V. Sankrithi	38190/235693	2953
826	7590	04/21/2005	EXAMINER /	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			CROW, STEPHEN R	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/006,000	Applicant(s) SANKRITHI, MITHRA M.K.V.	
	Examiner Steve R. Crow	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-20, 22-29 and 46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15, 16, 18-20, 22-24 and 26-28 is/are allowed.
- 6) ☒ Claim(s) 1-13, 17, 25, 29, 46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5,7-9,12,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moller in view of Coody et al.
3. Moller discloses a treadmill device comprising a treadmill track which is pivotally mounted to a wall for enabling it to be moved between a stowed and a deployed position.

Coody et al discloses a treadmill and seat combination comprising a treadmill track 10 capable of being moved between a stowed position and a deployed position, a foldable seat 200-204 connected to the treadmill track for enabling a person to sit thereon when the treadmill track is stored in the stowed position.

In view of the Coody combinational teaching of a folding seat for a treadmill, it would have been obvious to one skilled in the art to employ a foldable seat underneath the Moller treadmill or additional exercise purposes or for providing a seating structure, while still retaining the desired compactibility taught by Moller and Coody et al.

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Additionally, with respect to claim 4, the examiner contends that the Coody et al device can accommodate two small children side by side. Furthermore, changes in size are generally considered as design choices, and the examiner contends it would have been obvious to one skilled in the art to enlarge the Coody cushion to accommodate larger sized users, and thereby accommodating two adults.

As to claims 7, 9, modern conventional treadmills utilize a motor, belt and control means, as exemplified by Coody et al, and would therefore have been obvious to one skilled in the art to apply in the Moller treadmill for better variability of treadmill speeds.

As to claim 8, note user support 50.

1. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moller in view of Coody et al as applied to claim 1 above, and further in view of Anderson.

Anderson teaches the use of safety restraints such as seat belt 29 for restraining a person on a seat. (A quick search in the exercise area will show dozens of similar type restraining means). In view of this teaching, it would have been obvious to one skilled in the art to modify the Moller, modified supra device by incorporating a seat belt for safety purposes.

Response to Amendment

2. The amendment filed 1-24-05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

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The Drawings and Specification now show and describe a specific location of the securing means with reference to the treadmill structure and the floor, and show a specific orientation of what appears to be a hook attached to a floor via an element which hasn't been described not shown previously in the drawings.

The Drawings and Specification now attempt to show and describe a timer and card slot reader by placing simple lines in the drawing figures at specific locations on the treadmill. The means for accepting payment and timing means require amore description than merely narrative statements in the Specification and lines in the drawings.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-13,17,25-26,29,46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

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6. Claims 1 and 29 recite a securing device for firmly attaching to a floor . This structure is not shown in the Drawings. It is unclear how and where the structure stated in the Specification is structurally employed in connecting the treadmill to the floor surface .

7. Claims 10,11,25-26 recite means for accepting payment ; and recite means for limiting the time . These structures lack support in the Drawings.

8. Because these elements are not properly shown in the Drawings, it is unclear how and where the claimed structure is incorporated into the treadmill device.

Allowable Subject Matter

3. Claims 15-16,18-20,22-24,26-28 are allowed.

4. Claims objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claim 46 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve R Crow whose telephone number is 703-308-3398. The examiner can normally be reached on Reg:8:30-6;Off First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 703-308-2698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT 332